

# **W A R R A N T**

## **THE COMMONWEALTH OF MASSACHUSETTS ESSEX, SS.**

To Either of the Constables of the Town of Andover

Greeting:

In the name of the Commonwealth you are hereby required to notify and warn the Inhabitants of said Town who are qualified to vote in Elections and Town Affairs to meet and assemble at the designated polling place. All nine precincts: Precinct One, Precinct Two, Precinct Three, Precinct Four, Precinct Five, Precinct Five, Precinct Six, Precinct Seven, Precinct Eight and Precinct Nine are to vote at the Field House, Andover High School, Shawsheen Road, in said Andover, on

**TUESDAY, THE TWENTY-EIGHTH DAY OF MARCH, 2006**

at seven o'clock A.M. to act upon the following articles:

**ARTICLE 1.** To elect a Moderator for one year, two Selectmen for three years, two School Committee member for three years, one member of the Andover Housing Authority for five years, one member of the Greater Lawrence Regional Vocational Technical School District and five trustees of the Punchard Free School for three years.

All of the above candidates are to be voted on one ballot. The polls will be open from seven o'clock A.M. to eight o'clock P.M.

After the final action on the preceding Article One, the said meeting shall stand adjourned by virtue of Chapter 39, Section 20 of the Massachusetts General Laws, to Monday, April 24, 2006, at seven o'clock P.M. in the Field House, Andover High School, Shawsheen Road, in said Andover, then and there to begin acting upon articles that follow in this warrant.

**ARTICLE 2.** To elect all other officers not required by law to be elected by ballot.

On request of the Town Clerk

**ARTICLE 3.** To establish the salaries of the elected officers for the ensuing year.

On request of the Town Clerk

**ARTICLE 4.** To see if the Town will vote to determine what sums of money the Town will raise and appropriate, including appropriations from available funds, to defray charges and expenses of the Town, including debt and interest, and to provide for a reserve fund for the Fiscal Year beginning July 1, 2006 and ending June 30, 2007 or take any other action related thereto.

On request of the Town Manager

**ARTICLE 5.** To see if the Town will vote to raise by taxation and appropriate the sum of \$2,315,000 for the purpose of funding the Fiscal Year 2007 appropriation for the Capital Projects Fund or take any other action related thereto.

On request of the Town Manager

**ARTICLE 6.** To see if the Town will vote to transfer from amounts previously appropriated at the 2005 Annual Town Meeting as authorized by MGL Chapter 44, Section 33B or take any other action related thereto.

On request of the Town Manager as recommended by the Finance Director

**ARTICLE 7.** To see if the Town will vote to transfer from available funds a sum of money to supplement appropriations voted at the April 2005 Annual Town Meeting or take any other action related thereto.

On request of the Town Manager as recommended by the Finance Director

**ARTICLE 8.** To see what amount the Town will vote to permit the Assessors to use in free cash to reduce the Fiscal Year 2007 tax rate and to affect appropriations voted at the 2006 Annual Town Meeting.

On request of the Town Manager as recommended by the Finance Director

**ARTICLE 9.** To see what disposition shall be made of unexpended appropriations and free cash in the treasury.

On request of the Town Manager as recommended by the Finance Director

**ARTICLE 10.** To see if the Town will vote the following consent articles or take any other action related thereto:

A. Grant Program Authorization

To see if the Town will vote to authorize the Board of Selectmen and/or the Town Manager to apply for, accept and enter into contracts from time to time for the expenditure of any funds allotted to Andover by the Commonwealth of Massachusetts or the U. S. Government under any State or Federal grant program or take any other action related thereto.

On request of the Town Manager

B. Road Contracts

To see if the Town will vote to authorize the Town Manager to enter into a contract with the Massachusetts Highway Department Commissioners or the Federal Government for the

construction and maintenance of public highways in the Town of Andover for the ensuing year or take any other action related thereto.

On request of the Town Manager

C. Town Report

To act upon the report of the Town officers or take any other action related thereto.

On request of the Town Manager

D. Property Tax Exemptions

To see if the Town will vote to accept the provisions of Section 4, Chapter 73 of the Acts of 1986 as amended by Chapter 126 of the Acts of 1988 to allow an additional property tax exemption for Fiscal Year 2006 for those persons who qualify for property tax exemptions under Massachusetts General Laws Chapter 59, Section 5 or take any other action related thereto.

On request of the Board of Assessors

E. Contracts in Excess of Three Years

To see if the Town will vote in accordance with the provisions of Massachusetts General Laws Chapter 30B, Section 12(b), to authorize the Town Manager or the Superintendent of Schools to solicit and award contracts for terms exceeding three years but no greater than five years, including any renewal, extension or option, provided in each instance the longer term is determined to be in the best interest of the Town by a vote of the Board of Selectmen or the School Committee, as appropriate, or take any other action related thereto.

On request of the Town Manager

F. Accepting Easements

To see if the Town will vote to authorize the Board of Selectmen and the School Committee to accept grants of easements for streets, water, drainage, sewer and utility purposes on terms and conditions the Board and the Committee deem in the best interests of the Town or take any other action related thereto.

On request of the Town Manager

G. Granting Easements

To see if the Town will vote to authorize the Board of Selectmen and the School Committee to grant easements for water, drainage, sewer and utility purposes on terms and conditions the Board and the Committee deem in the best interests of the Town or take any other action related thereto.

On request of the Town Manager

H. Rescinding of Bond Authorizations

To see if the Town will vote to rescind unissued bond authorizations from prior Town Meetings or take any other action related thereto.

On request of the Finance Director

**ARTICLE 11.** To see if the Town will vote to transfer from available funds a sum of money to pay unpaid bills for which obligation was incurred in prior fiscal years or take any other action related thereto.

On request of the Town Accountant

**ARTICLE 12.** To see if the Town will vote to authorize the Town to acquire any necessary easements by gift, by purchase or by right of eminent domain for Chapter 90 Highway Construction or any other federal or state aid program for road or sidewalk improvements or take any other action related thereto.

On request of the Town Manager

**ARTICLE 13.** To see if the Town will vote to authorize the following revolving funds for certain Town departments under Massachusetts General Laws, Chapter 44, Section 53E1/2 for the fiscal year beginning July 1, 2006 or take any other action related thereto:

<b>Revolving Fund</b>	<b>Authorized to Spend</b>	<b>Use of Fund</b>	<b>Revenue Source</b>	<b>FY-2007 Limit</b>
A. Community Development & Planning Department	Division Heads	Advertising legal hearing notice expenses for permit applications	Applicant Fees	\$40,000
B. Memorial Hall Library-Lost/Damaged Materials	MHL Director	Replacement of lost/damaged library materials	Restitution payments /charges to borrower or patron	\$20,000
C. Health Clinic	Public Health Director	Clinic supplies and other expenses	Clinic participant fees	\$20,000
D. Division of Community Services	Community Services Director	Trips, ticket sales and special programs and activities	Participant fees	\$260,000

E. Division of Youth Services	Youth Services Director	All programs and activities expenses, part-time help	Participant fees	\$175,000
F. Field Maintenance	Plant and Facilities Director	Field maintenance, upgrade and related expenses	Field rental fees	\$50,000
G. Division of Elder Services	Elder Services Director	Senior programs, classes and activities	Participant fees	\$200,000
H. Public Safety	Chief of Police	Maintenance and purchase of public safety radio and antennae equipment	Lease agreements for antenna users	\$50,000
I. Memorial Hall Library Audio/Visual	MHL Director	Purchase of audio/visual materials	Rental of audio/visual materials	\$36,000

On request of the Finance Director

**ARTICLE 14.** To see if the Town will vote to create a Stabilization Fund for the purpose of funding future one-time unforeseen costs of the Town, and to see if the Town will vote to transfer and appropriate a sum of money from available funds to the Stabilization Fund in accordance with MGL Chapter 40, Section 5B, as amended by Chapter 46, Sections 14 and 50 of the Acts of 2003, or take any other action related thereto.

On request of the Town Manager

**ARTICLE 15.** To see if the Town will vote to raise by taxation or by transfer from available funds and appropriate a sum not to exceed \$400,000 to the Accumulated Employee Benefit Account for funding accrued employee vacation and sick leave liabilities upon being eligible for retirement under the Andover Contributory Retirement System and terminating employment with the Town, or take any action related thereto.

On request of the Town Accountant

**ARTICLE 16.** To see if the Town will vote to appropriate and raise by taxation a sum not to exceed \$12,000 for the purpose of continuing to provide for an elderly and disabled transportation subsidy program or take any other action related thereto.

On request of the Council on Aging

**ARTICLE 17.** To see if the Town will vote to appropriate \$1,115,000 for the purpose of paying costs of school buildings roof reconstruction and renovation as more fully described in the five year Fiscal Year 2007-2011 Capital Improvement Program and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clause(3A) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor, or take any other action related thereto.

On request of the Plant and Facilities Director

**ARTICLE 18.** To see if the Town will vote to reduce the interest rate charged on property taxes deferred by eligible seniors under Massachusetts General Laws, Chapter 59, Section 5 (41A), as amended by Chapter 136, Section 1 of the Acts of 2005, or take any other action related thereto.

On request of the Board of Assessors

**ARTICLE 19.** To see if the Town will vote to accept Section 1 of Chapter 157 of the Acts of 2005 which would provide an accidental disability retiree who is also a veteran with an additional yearly benefit of \$15 for each year of creditable service or a fraction thereof, up to a maximum yearly benefit of \$300, or take any other action related thereto.

On petition of the Andover Contributory Retirement Board

**ARTICLE 20.** To see if the Town will vote to accept Section 2 of Chapter 157 of the Acts of 2005 which would provide the benefit accepted in Section 1 retroactively to the retirees date of retirement, or take any other action related thereto.

On petition of the Andover Contributory Retirement Board

**ARTICLE 21.** To see if the Town will vote to appropriate \$1,179,000 for the purpose of paying costs of reconstructing sidewalks within the Town as more fully described in the five year Fiscal Year 2007-2011 Capital Improvement Program portion of the Town's Sidewalk Master Plan, so-called, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clauses (5) and (6) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor, or take any other action related thereto.

On request of the Public Works Director

**ARTICLE 22.** To see if the Town with authorize the Board of Health to enter into a Memorandum of Understanding with the member communities of the Greater Lawrence Coalition Emergency Preparedness Region 3B to provide mutual aid and assistance in responding to public health emergencies, on terms and conditions the Board of Health deems in the best interest of the Town, or take any other action related thereto.

On request of the Board of Health

**ARTICLE 23.** To see if the Town will vote to appropriate the sum of \$1,500,000 for the acquisition of land for conservation purposes under the provisions of Chapter 40, Section 8C of the Massachusetts General Laws, to authorize the Board of Selectmen and Conservation Commission to acquire this land by gift, purchase or eminent domain, and that to raise this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7, Clause(3) of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor or take any other action related thereto.

On request of the Town Manager

**ARTICLE 24.** To see if the Town will vote to raise by taxation, by transfer from available funds, by borrowing, or by any combination of the foregoing, and appropriate the sum of \$596,000 for the purpose of constructing a new bituminous concrete sidewalk with granite curbing along Highland Road between Salem Street and Summer Street.

On petition of Barbara Pattullo and others

**ARTICLE 25.** To see if the Town will vote to appropriate the sum of \$460,000 for the purpose of constructing a paved walkway on the east side of High Street from a southerly point starting at the end of the existing sidewalk at approximately 109 High Street and proceeding north to connect to the existing sidewalk at Meredith Village at the corner of High Street and Haverhill Street; and further to authorize the Board of Selectmen to acquire by gift, by purchase or by seizure by right of eminent domain such land or easements as may be required for this paved walkway; or take any other action related thereto.

On petition of Richard M. Sweitzer and others

**ARTICLE 26.** To see if the Town will vote to accept and name as a public way any or all of the following five (5) streets: Barron Court, Green Meadow Lane, Jordyn Lane, Stirling Street and Whittemore Terrace as further described below:

- A. Barron Court (formerly known as Birmingham Court), as shown on a plan approved by the Andover Planning Board entitled “DEFINTIVE CLUSTER SUBDIVISION, LAYOUT PLAN, ANDOVER, MASSACHUSETTS, BIRMINGHAM ESTATES”, dated February 5, 2003 (revised) and recorded in the Essex North District Registry of Deeds as Plan Number 14528;
- B. Green Meadow Lane, as shown on a plan approved by the Andover Planning Board entitled “LOT LAYOUT PLAN GREEN MEADOW LANE, GREENWOOD & CHANDLER ROADS, ANDOVER, MASSACHUSETTS”, dated September 8, 2003 and recorded in the Essex North District Registry of Deeds as Plan Number 14580;
- C. Jordyn Lane, as shown on a plan approved by the Andover Planning Board entitled “DEFINTIVE PLAN SUDIVISION, JORDYN LANE ESTATES IN ANDOVER,

MASSACHUSETTS (Essex County)”, dated August 4, 2000 (revised) and recorded in the Essex North District Registry of Deeds as Plan Number 13969; and

- D. Stirling Street and Whittemore Terrace, as shown on a plan approved by the Andover Planning Board entitled “DEFINITIVE SUBDIVISION PLAN OF LAND, STIRLING WOODS, ANDOVER MASSACHUSETTS”, dated April 29, 1998 (revised) and recorded in the Essex North District Registry of Deeds as Plan Number 13424;

or take any other action related thereto.

On request of the Board of Selectmen

**ARTICLE 27.** To see if the Town will provide funding in the amount of \$9,000 for a Fireworks Program as part of the Fourth of July Program from available funds or take any other action related thereto.

On petition of Gerald H. Silverman and others

**ARTICLE 28.** To see if the Town will vote to authorize the Board of Selectmen to accept as a gift, for general municipal purposes, the real property at River Park Terrace containing approximately 4,500 square feet and as shown on Assessors’ Map 139, Lot 77, or take any other action related thereto.

On request of the Town Manager

**ARTICLE 29.** To see if the Town will vote to transfer the care custody and control of the lands listed herein to the Conservation Commission pursuant to General Laws, Chapter 40, Section 8C, and General Laws, Chapter 40A, Section 9, for open space use pursuant to those statutes.

10 David Drive (4.4 acres), Tax Map 155, Lot 5K, Book 2826, Page 89, Pendleton Estates Subdivision;

6 Black Birch Way (2.4 acres), Tax Map 208, Parcel 7, Book 2826, Page 208, Golden Oaks Subdivision;

or take any other action related thereto.

On request of the Planning Board

**ARTICLE 30.** To see if the Town will vote to transfer the care, custody and control of the lands listed herein to the Conservation Commission pursuant to General Laws, Chapter 40, Section 8C, and General Laws, Chapter 40A, Section 9, for open space use pursuant to those statutes.

8 Hearthstone Place (16.80 acres), Tax Map 178, Lot 1A, Book 3547, Page 320, Hearthstone Village Subdivision;



19 Hearthstone Place (26.86 acres), Tax Map 201, Parcel 17, Book 3547, Page 320, Hearthstone Village Subdivision; and

10 Keystone Way (.64 acres), Tax Map 179, Parcel 38, Book 3547, Page 320, Hearthstone Village Subdivision;

or take any other action related thereto.

On request of the Planning Board

**ARTICLE 31.** To see if the Town will vote to transfer the sum of \$500,000 from water reserves and appropriate \$500,000 for the purpose of replacing and/or cleaning old water mains including costs incidental and related or take any other action related thereto.

On request of the Public Works Director

**ARTICLE 32.** To see if the Town will vote to transfer a sum not to exceed \$1,000,000 from unexpended water and sewer articles to fund the replacement of water meters or take any action related thereto.

On request of the Public Works Director

**ARTICLE 33.** To see if the Town will vote to raise by borrowing and appropriate the sum of \$500,000 for the purpose of repairing and/or replacing sanitary sewers including costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7 of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town or take any other action related thereto.

On request of the Public Works Director

**ARTICLE 34.** To see if the Town of Andover will vote to amend Article VIII of the Andover Zoning By-law by deleting the following language:

“7.4. ELDERLY HOUSING

7.4.1. Purpose. The objectives of this section are to achieve the following public purposes:

1. To provide for the development and use of alternative housing and nursing care for the elderly in accordance with the Town's Master Plan.
2. To create home health care, housing and other supportive services for the elderly population outside of an institutional setting.
3. To encourage the preservation of open space.

4. To provide alternative housing for the elderly that cause relatively little demand on Town services.
5. To preserve the Town's residential character.
6. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space.
7. To provide housing which is affordable to the elderly population who are Andover Residents.”

and replacing it with:

“7.4. SENIOR HOUSING

7.4.1. Purpose. The objectives of this section are to achieve the following public purposes:

1. To provide for the development and use of alternative housing and/or nursing care for persons 55 years of age or over in accordance with the Town's Master Plan.
2. To create home health care, housing and other supportive services for the senior population outside of an institutional setting.
3. To encourage the preservation of open space and the Town’s residential character.
4. To provide a type of housing which reduces a residents’ burdens of property maintenance.
5. To promote flexibility in land use planning in order to improve site layouts and protect natural features.
6. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space.
7. To provide a less expensive means of housing for a maturing population.”

and by deleting the following language:

“7.4.8. Independent Living Residence - Dimensional Requirements and Design Standards.

1. The provisions of Section 7.6.2 for conversion of a one- or two- or more family dwelling, shall apply.
2. Parking Requirements. The provisions of Appendix A, Table 3, Section A.5.d shall apply.”

and replacing it with:

#### “7.4.8. Independent Living Residence (ILR)”

##### 1. Permitted Uses

Single family dwellings, duplex structures, and/or multifamily structures. An Independent Living Residence development may include common areas, a common dining facility, accessory structures and space for the provision of social, psychological and educational programs.

##### 2. Dimensional Requirements

a. **Minimum Lot Size.** A special permit for ILR shall be permitted in a SRA, SRB and SRC District within a single lot containing a total area of at least 5 acres. Contiguous lots must be combined and shown as one lot. In the SRC District, the minimum lot size shall contain at least five acres of uplands. For the purposes of this section, uplands shall mean lot area located outside the wetland margin as identified on maps entitled “Wetland Areas of Andover, MA” approved by the Andover Conservation Commission.

b. **Unit Calculation.** The number of dwelling units shall be limited to 7 units per acre in SRA and SRB and the number of dwelling units shall be limited to 4 units per acre in SRC. The area for purposes of dwelling unit calculation, shall be exclusive of (i.e. minus):

i. Common Open Space (as defined in Section 7.4.8.2.g.),

ii. Wetland Areas,

iii. Slopes greater than 25% not included in Common Open Space  
(Area for Unit Calculation = Lot – Common Open Space – Wetland Areas – Slopes greater than 25% not included in Common Open Space)


When calculating the total number of dwelling units, a fractional unit equal to or greater than 0.5 dwelling units shall be regarded as the next higher whole unit.

The maximum number of units allowed on a lot is seventy-five (75) units.

c. **Building Coverage.** The maximum building coverage, including accessory buildings and existing structures, shall not exceed thirty percent (30%) of the total lot for new construction or the expansion of existing structures. This requirement shall not apply to the reuse and renovation of existing structures within the existing footprint.

- d. Height. Any addition or new construction shall not exceed thirty-five (35) feet in height. The Planning Board may increase the height limitation to no more than forty (40) feet and no more than three (3) stories; taking into careful consideration the character of the neighborhood. This requirement shall not apply to the reuse and renovation of existing structures that may exceed this height limit.
- e. Frontage. The minimum lot frontage shall conform to the requirements of the district where such use is located. The Planning Board may reduce the frontage requirement to not less than 90 feet of frontage on a public way as part of the Special Permit, provided that a suitable private access road into the lot will be used at that location and can be constructed with the reduced frontage.
- f. Perimeter Setback. All buildings and parking areas shall be a minimum of fifty feet from the perimeter lot line. This provision excludes internal lot lines such as a lot later conveyed as common open space. Access roads, common open space, underground utilities, and pedestrian paths are allowed in the perimeter setback. The Planning Board may reduce the width of the perimeter setback to no less than 30 feet at appropriate locations, taking into account the character of the surrounding neighborhood. This section does not preclude the reuse and renovation of existing structures that may not meet this perimeter setback. When feasible, the perimeter setback shall remain in a natural state to preserve the visual character of the parcel being developed.
- g. Common Open Space. There shall be an area of common open space equal to at least thirty percent (30%) of the lot. The common open space shall be 100% upland unless otherwise determined by the Planning Board. Such common open space shall either be: (i) conveyed to the Town of Andover Conservation Commission and accepted by the Andover Conservation Commission and Board of Selectmen; or (ii) conveyed to a nonprofit organization, approved by the Planning Board, the principal purpose of which is the conservation of open space for the benefit and use of the general public; or (iii) encumbered by a Conservation Restriction to be held by the Andover Conservation Commission and approved by the Secretary of Environmental Affairs in accordance with Massachusetts General Laws Chapter 184, Section 32. Each of the above conveyances shall allow access to the general public and be subject to the following permitted uses: (a) easements for the installation, repair and replacement of underground utilities including, but not limited to, water, sewer, telephone, electric, cable; (b) grading as shown on the approved plan; and (c) walking and bicycle paths. The application shall state which of the foregoing options the applicant proposes. No occupancy permit shall be issued until the recording at the Registry of Deeds of either (i) the conveyance to the Andover Conservation Commission or an approved non-profit organization, or (ii) the Conservation Restriction as approved by the Secretary of Environmental Affairs.

3. Building and Landscape Design Standards.
- a. The application requirements of subsections 9.5.3 and 9.5.4.1 and 9.5.4.2 shall apply.
  - b. Additional Application Requirements:
    - i. An Existing Conditions Site Plan that identifies the existing topography, site features worthy of preservation, existing dwellings, and any noteworthy natural, scenic and cultural resources. The Planning Board may require the plan to show mature vegetation such as trees over 24" caliper.
    - ii. An Overlay to the Existing Conditions Site Plan that identifies the perimeter setback, wetlands, slopes greater than 25%, and proposed common open space. Noteworthy trees and vegetation shall be preserved and integrated into the design when possible.
    - iii. A Site Plan showing the location of buildings, streets, parking areas, pedestrian and bicycle paths, and other built features of the development. The design should reflect an integrated community, with emphasis on consistency with the neighborhood's existing development pattern. It should illustrate the connections and relationships to adjacent amenities. All buildings shall be arranged so as to preserve visual and audible privacy between adjacent buildings. Walking and bicycle paths shall provide access to adjacent conservation lands, if any, and neighboring streets and sidewalks, when feasible.
    - iv. A unit calculation study that illustrates total lot minus proposed common open space, existing wetland areas, and slopes greater than 25% not included in common open space.
    - v. An aerial photograph of the lot and the surrounding neighborhood with at least a .25-mile radius.
    - vi. If the project is to be phased, all phases of the proposed development shall be shown on a plan, the scope of each phase, and a preliminary timetable shall be provided.
    - vii. Building elevations and a schedule of building materials shall be provided. Individual buildings shall be related but not identical to each other in design, mass, material, placement, and connection. The Planning Board may request sample floor plans.
  - c. Up to twenty five percent (25%) of the units may have three bedrooms; the remainder of the units shall have a maximum of two bedrooms per unit. For the purposes of this provision, each room in excess of sixty-four (64) square feet with a closet and an exterior window shall be considered a bedroom (excluding the kitchen, living room, dining room, and all bathrooms). Floor plans shall identify each room type.

- d. The development shall be served by the Town of Andover public water supply.
  - e. All projects proposed under the ILR shall be connected to a public sewer system whenever possible. Notwithstanding the foregoing, the Planning Board may allow an alternative wastewater disposal system approved under either Title 5 of the State Environmental Cod (310 CMR 15.000) or a wastewater disposal system approved as part of a groundwater discharge permit issued by the Massachusetts Department of Environmental Protection pursuant to 314 CMR 5.00. The alternative wastewater disposal system must comply with all applicable local and state wastewater bylaws and regulations, and receive written approval from the Andover Board of Health.
  - f. All service areas, equipment, parking, sewerage facilities and recreational areas shall have screening. Suitable indigenous shrubs, vegetation, flora, deciduous shrubs and/or trees, other plant materials and fencing shall be used for screening.
  - g. All utilities shall be underground.
  - h. Exterior lighting shall not be detrimental to abutting properties, and shall be planned, installed and operated so as to best serve each building and the neighborhood as determined by the Planning Board.
4. Parking and Circulation Design Standards
- a. There shall be an adequate safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, aisles, visitor and off-street parking, and snow disposal.
  - b. One parking space for each studio and one bedroom unit and two parking spaces shall be provided for each two or more bedroom unit, in reasonable proximity to the dwelling, or in garages. Additional parking in proximity to any clubhouse or other facility serving the residents in common shall follow the requirements of Appendix A, Table 3, Table of Off-Street Parking Requirements.
  - c. Driveways shall be a minimum of 18 feet to accommodate the length of a vehicle.
  - d. The Planning Board may authorize a decrease in the number of parking spaces by 30% of the total number required. The reserved spaces shall be set aside and shall not be intended for immediate construction, but shall be properly designed (rough graded with loam and seed) as an integral part of the overall parking layout. Such spaces shall be labeled as "Reserve Parking" on the plan. Prior to the issuance of the first building permit the applicant shall secure the obligation to complete the Reserve Parking by h, a letter of credit, or surety bond as determined by the Planning Board. Said security shall be returned to the applicant if the Reserve Parking is not required by the Planning Board 3 years from the date of the issuance of the first building permit.

- e. Parking facilities shall be designed with careful regard to the arrangement, topography, landscaping, and ease of access, and shall be developed as an integral part of the overall design.

5. Affordability Component

- a. At least 15% of the dwelling units shall be affordable to an individual or household whose annual income is eighty percent (80%) or less of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets. When calculating the total number of affordable units, a fractional unit equal to or greater than 0.5 affordable units shall be regarded as the next higher whole unit.
- b. The Planning Board shall ensure that each affordable unit is eligible for inclusion in the Massachusetts Department of Housing and Community Development's (DHCD) Subsidized Housing Inventory for the Town of Andover using the DHCD's Local Initiative Program (760 CMR 45.00) or other program acceptable to DHCD.
- c. Affordable units shall be dispersed throughout the building(s) and shall have exteriors that are equivalent in design and materials to the exteriors of other housing units in the project, and shall also be comparable to the market-rate units in terms of location, size, and exterior character.
- d. Nothing in this subsection shall preclude the applicant from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups or from setting aside more units for lower-income groups.
- e. Each unit of affordable housing shall be subject to an affordable housing restriction which shall be a deed restriction meeting statutory requirements of M.G.L. c. 184, Section 31 and the requirements of this Section 7.4 which shall be recorded with the appropriate registry of deeds or district registry of the Land Court, and which contains the following:
  - i. specification of the term of the affordable housing restriction which shall be perpetual or the longest period of time allowed by applicable laws.
  - ii. the name and address of an "administering agency," as defined in Section 7.4.8.5.h., with a designation of its power to monitor and enforce the affordable housing restriction;
  - iii. a description of the unit of affordable housing by address and number of bedrooms;
  - iv. a reference to a housing marketing and resident selection plan to which the affordable housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing

and selection plan may provide for up to a 70% local preference, or such percentage otherwise permitted by law, for Andover residents during selection for the affordable housing units; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such unit shall be given to a household of the appropriate size. For the purposes of this section “Andover residents” shall be defined as a current Town of Andover resident, an immediate relative of an Andover resident, or an employee of the Town of Andover and such other persons and such other persons as may be designated by the Planning Board.

- v. a requirement that residents will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of eligible households compiled in accordance with the housing marketing and selection plan;
- vi. a reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
- vii. a designation of the priority of the affordable housing restriction over other mortgages and restrictions, provided that a first mortgage of a homeownership housing unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable housing restriction if required by then current practice of commercial mortgage lenders as reasonably determined by the DHCD;
- viii. a requirement that only an eligible household may reside in an affordable housing unit and that notice of any lease or sublease of any unit of affordable housing shall be given to the administering agency;
- ix. a provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;
- x. the restrictions shall contain a right of first refusal by the Town of Andover or its designee at the restricted sale value, and a requirement that the owner provide notice of such right of refusal to the Town of Andover or its designee prior to selling the unit;
- xi. a provision that the owner[s] or manager[s] of affordable rental unit[s] shall file an annual report to the administering agency, in a form specified by that agency certifying compliance with the affordability provisions of this bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and



- xii. a requirement that residents in affordable housing provide such information as the administering agency may reasonably request in order to ensure affordability and compliance with this Section 7.4.
- f. An administering agency which may be the Andover Housing Authority, a regional or local non-profit housing agency, an affordable housing trust, or other qualified and experienced housing entity shall be designated by the Planning Board. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Planning Board or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such agency shall ensure the following:
  - i. prices of affordable homeownership units are properly computed; rental amounts of affordable rental units are properly computed;
  - ii. income eligibility of households applying for affordable housing is properly and reliably determined;
  - iii. the housing marketing and resident selection plan conforms to all requirements and is properly administered;
  - iv. sales and rentals are made to eligible households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
  - v. affordable housing restrictions meeting the requirements of this section are recorded with the proper Registry of Deeds.
- g. The applicant may, with the consent of the Planning Board, provide that in lieu of affordable unit(s), the applicant may contribute to the Town of Andover Housing Trust Fund, a cash contribution equal to the difference between the maximum price of an affordable unit and what the market rate sales price of the unit would be. The Planning Board and the applicant shall agree on the amount, timing and method of such payments to ensure that such payments are made. The funds shall be used solely by the Town of Andover for the preservation and creation of affordable housing in the Town of Andover solely for the benefit of low and moderate-income households.

6. Additional Requirements

- a. No lot shown on a plan for which a permit is granted under this section may be further subdivided, and a notation to this effect shall be shown upon the plan.
- b. Copies shall be provided to the Planning Board of the condominium or homeowners' association or other legal structure formed for the operation, maintenance, management and enforcement of this development,

including a master deed and bylaws of the organization before the issuance of an occupancy permit for any of the units in the project.

- c. All Independent Living Residence dwelling units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, condominium documents, or other document approved by the Planning Board that shall be recorded at the Registry of Deeds or Land Court before the issuance of an occupancy permit for any of the units in the project. All such documentation shall reference the purpose of the special permit for Independent Living Residence and the requirement that 100% of the units shall be occupied by at least one person who is fifty-five years of age or older (the “Qualified Occupant”) consistent with the “Housing Laws” (as defined below); provided, however, that in the event of death of the Qualified Occupant(s) of a unit, or the foreclosure or involuntary transfer of a unit, a two year exemption shall be allowed to allow for the transfer of the unit to another Qualified Occupant (the “Age Restriction”) so long as the provisions of the “Housing Laws” are not violated by such occupancy. The Age Restriction is intended to be consistent with, and is set forth in order to comply with, the Federal Fair Housing Act, 42 USC Section 3607(b), as amended, the regulations promulgated thereunder at 24 CFR Section 100.300 et seq., Subpart E – Housing For Older Persons, as amended, and MGL c. 151B, Section 4 (collectively, the “Housing Laws”).
- d. The Planning Board shall provide written notice to the Inspector of Buildings that the premises have been built in accordance with the conditions of approval and according to Section 7.4.1. and 7.4.8. prior occupancy permits.
- e. The total number of Independent Living Residence dwelling units erected under this special permit in Andover shall not exceed 2% of the total housing units as calculated by the most recent decennial census for Andover at the time of application.

7. Special Permit. The Planning Board may grant a special permit if it finds all of the following:

- a. The design standards and criteria in Section 7.4.1 Purpose and 7.4.8. Independent Living Residence (ILR) and Section 9.4.2 Criteria have been met;
- b. The intersections and roadways likely to be affected by the proposed development are of sufficient capacity and design to accommodate the proposed development;
- c. The proposed development encourages the preservation of open space for the benefit and use of the general public;
- d. The proposed development is integrated into and harmonious with the surrounding neighborhood; and
- e. The project provides an alternative means of housing stock in Andover.”

and in Section 10: Definitions by deleting the following language:

“INDEPENDENT LIVING RESIDENCE: A dwelling that provides accommodations in dwelling units for elderly persons. These residences may include common areas, a common dining facility and space for the provision of social, psychological and educational programs.”

and replacing it with:

“INDEPENDENT LIVING RESIDENCE: a dwelling unit constructed or converted for use and residency by at least one person who has achieved a minimum age required of fifty-five (55) years of age or older in accordance with M.G.L. Chapter 151B, Section 4, Subsection 7, the Federal Fair Housing Act, 42 USC Section 3607(b), as amended, and the regulations promulgated thereunder at 24 CFR Section 100.300 et seq., Subpart E – Housing For Older Persons, as amended. A development that contains such units may include common areas, a common dining facility, accessory structures and space for the provision of social, psychological and educational programs.”

and to amend Appendix A, Table 1, Section 3.1.3 Table of Use Regulations, A.5.d, under SRC, change from “N” to “PB”.

or to take any other action relative thereto.

On request of the Planning Board

**ARTICLE 35.** To see if the Town will vote to modify the current definition of “Family Dwelling Unit” in Article VIII, Section 10.0, Definitions, of the Zoning Bylaw, by deleting “or accessory building” from the definition or take any other action related thereto.

On request of the Inspector of Buildings

**ARTICLE 36.** To see if the Town will vote to amend Article VIII, Section 10.0, Definitions, of the Zoning Bylaw, by adding a definition for “Contractor’s Yard” as follows:

“Contractor’s Yard: A yard to allow the following uses:

- Parking of commercial vehicles and equipment either in the open or in enclosed structures;
- Building supply and fuel establishment;
- Storage of construction materials;
- Storage of earth materials; and
- Storage of demolished construction materials ready to be re-used, recycled or disposed, such as bricks, concrete masonry units, roofing materials, bituminous asphalt and the like.”

or take any other action related thereto.

On request of the Inspector of Buildings

**ARTICLE 37.** To see if the Town will vote to raise by borrowing, by transfer from available funds or by any combination thereto and appropriate the sum of \$440,000 for the purchase of a Fire pumper, including costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said sum under and pursuant to Chapter 44, Section 7, Clause (9) of the General Laws as amended and supplemented, or any other enabling authority, and to issue bonds or notes of the Town therefor or take any action related thereto.

On request of the Fire Chief

**ARTICLE 38.** To see if the Town of Andover will amend Article XII of the General By-laws of the Town of Andover by adding Section 42. Newsracks, Placement and Maintenance to read as follows:

“Section 42. Newsracks, Placement and Maintenance

I. Purpose

The intent of this by-law is to promote the public health, safety and welfare through the regulation of placement, appearance and maintenance of newsracks on public ways so as to provide pedestrian and vehicular safety.

II. Definitions

As used in this by-law, the following terms shall have the meanings indicated:

**CENTRAL BUSINESS DISTRICT (CBD)** - a region with the same boundaries as the General Business District but excluding the General Business Districts located in Ballardvale and Shawsheen.

**COMPLIANCE SEAL** - a self-adhesive sticker issued by the Director to the compliant applicants containing pertinent information which must be displayed inside every valid newsrack.

**DIRECTOR** - the Director of the Public Works Department of the Town of Andover or such person as said Director may from time to time designate.

**NEWSRACK** - any type of self-service device for the vending or free distribution of newspapers, periodicals or printed material.

**PUBLIC WAY** – any public highway, private way laid out under authority of statute, way dedicated to public use, or way under the control of the Town Department of Public Works, School Department, Conservation Commission, or other body having like power, and any sidewalk adjacent to a public way.

### III. Compliance Seal

- A. Requirements. No person shall place, affix, erect, maintain or continue to maintain a privately or publicly owned newsrack in or on any part of a public way in any district outside of the Central Business District without first obtaining a Compliance Seal from the Director in accordance with the provisions of this by-law. No person shall place, affix, maintain or continue to maintain a newsrack in the Central Business District except as provided in Section V.D. of this by-law. All newsracks in the Central Business District shall be owned by the Town and may be used by applicants who obtain a Compliance Seal for space in Town-owned newsracks in accordance with this by-law.
- B. Compliance Seal. The Compliance Seal must be renewed annually for each newsrack and for space in Town-owned newsracks in the Central Business District.
- C. Issuing Authority. The Director shall be the issuing authority and coordinator of the application process and administration of this by-law.
- D. Approving Authority. The approving authority shall be the Director. The Director or his/her designee shall review and approve for compliance with this by-law.
- E. Application Process. Applicants must complete a written application on a form provided by the Director.
- F. Issuance of a Compliance Seal. Upon a finding by the Director that the applicant is in compliance with the provisions of this by-law, the Director shall issue a Compliance Seal for installation by the applicant of a privately owned newsrack or for the use of space in a Town-owned newsrack. The Director shall issue a Compliance Seal within twenty days of the Director's receipt of the completed application. All applications shall be approved on a first come, first serve basis by the Director.
- G. Denial of Compliance Seal. If an application for a newsrack location is denied, the Director shall notify the applicant within twenty days of the Director's receipt of the completed application. The Director shall state the specific reasons for denial. The applicant may reapply for a substitute alternative location without having to pay an additional application fee.
- H. The Director reserves the right to order by written notice to the applicant that any newsrack be removed from an approved location, or that materials be removed from a Town-owned newsrack either temporarily or permanently, in the interests of public safety.

### IV. Fees

- A. There shall be an application fee for each newsrack and for space in each Town-owned newsrack paid to the Town of Andover. This fee shall be due upon initial application and yearly upon annual renewal. Such fees shall be set by the Board of Selectmen.
- B. Where the Director has required newsracks to be set in corrals, or at hitching posts pursuant to Section V. below, additional fees shall be imposed by the Director and paid by the applicant to offset the Town's costs for each such corral or hitching post used by an applicant.
- C. The fee shall be applicable to the initial license year or any part thereof. Permits shall be for a term of one (1) year and shall not be assignable. Compliance Seals expire on December 31 of each year.
- D. Applications for renewal of Compliance Seals shall be filed with the Director no later than November 30 for the forthcoming year with the renewal fee. In the event that the application is not filed and the renewal fee is not paid by November 30, the space shall be forfeited.

V. Standards

- A. Placement. Subject to the prohibitions contained in this section, newsracks shall be placed parallel to and not less than eighteen inches (18") nor more than twenty-four inches (24") from the edge of a curb. Newsracks so placed shall face the sidewalk, not the street. Newsracks placed near the wall of a building or other structure must be placed parallel to and not more than six inches (6") away from the wall. No newsrack(s) shall be affixed, erected, installed, placed, used or maintained:
  - (1) at any location whereby the clear space for the passage of pedestrians is reduced to less than eight (8) feet in width;
  - (2) within ten (10) feet of any marked, or unmarked crosswalk or handicapped ramp;
  - (3) within ten (10) feet of any fire hydrant, fire lane, fire call box, police call box or other emergency facility, mail box, telephone booth or stand;
  - (4) within ten (10) feet of any part of a curb return of a curb ramp or driveway;
  - (5) within ten (10) feet of any traffic control signal or traffic sign;
  - (6) within three (3) feet of a bicycle rack;
  - (7) which in any way protrudes onto a street;

- (8) on any sidewalk immediately abutting a public school; or
  - (9) on any pervious surfaces including but not limited to grass, planting beds and mulched areas.
- B. Corrals and Hitching Posts. The Director may require that newsracks at locations in which more than three (3) are adjacent shall be set within a corral installed by the Town and the Director may require that newsracks at a particular location be chained to each other and/or to a permanent hitching post installed by the Town. The Director may choose the locations for corrals and hitching posts based on the history of misaligned or knocked over newsracks at the location, the high volume of pedestrian traffic at the location, or the relatively high concentration of newsracks at the location. However, nothing in this paragraph shall be construed to limit the locations at which corrals and hitching posts may be required.
- C. Size. Newsracks may not be higher than 4.5 feet.
- D. Central Business District (CBD).
  - (1) Privately-owned newsracks shall not be placed within the public right-of-way, along the streets, thoroughfares, parkways or sidewalks in the CBD. However, newspapers, fliers, or printed materials may be placed in Town-owned newsracks in the Central Business District pursuant to this section.
  - (2) Town-owned newsracks shall be placed at no more than four (4) locations within the CBD to be determined jointly by the Director and Planning Division.
  - (3) Compliance Seals for spaces within the Town-owned newsracks shall be issued subject to the following conditions:
    - a. Persons or entities wishing to place newspapers, fliers, handbills or other printed materials in the Town-owned newsracks must file an application on forms provided by the Director.
    - b. Compliance Seals shall be issued on a first come, first serve basis. In the event that the Town has issued seals equal to the number of available spaces in the Town-owned newsracks, additional applicants will be placed on a waiting list. As spaces become available, additional Seals shall be issued and retained according to the provisions of this section. No publication shall be issued more than one space at each location.
    - c. No logo, stickers, trademarks or other images may be attached to the Town-owned newsracks.

- (4) Upon removal of materials from the Town-owned newsrack, the applicant shall restore the space to the same condition as when the space was initially permitted, ordinary wear and tear excepted. The applicant shall be responsible for reimbursing the town for the cost of any repairs to the device resulting from damage by the applicant.
- (5) Materials placed in a Town-owned newsrack without a Compliance Seal therefore being issued, or after the expiration or revocation of a previously issued Compliance Seal, or materials deemed abandoned, or unclaimed, or in violation of any other provision of this regulation, shall be subject to enforcement under Section IX.

VI. Attachment to Property

- A. Except to the extent permitted by regulations promulgated by the Director, no operator shall place or cause to be placed and no operator shall suffer to remain any privately owned newsrack chained or otherwise attached to any tree, street light post, traffic signal, bench, bicycle rack, trash receptacle, fence, utility pole, phone or sign.
- B. Privately-owned newsracks, when placed side by side, may be chained or otherwise attached to one another, provided that no group of newsracks shall extend for a distance of more than eight (8) feet along a curb, and a space of not less than thirty (30) feet shall separate each group of newsracks.

VII. Advertising Prohibited

It shall be unlawful for any operator to use a newsrack for exterior advertising of a product or publication other than the product or publication dispensed therein.

VIII. Installation and Maintenance of Privately-Owned Newsracks

Privately-owned newsracks shall be of a sturdy material and installed or otherwise placed and maintained by the applicant in accordance with the following provisions:

- A. Each newsrack shall display a Compliance Seal located inside the newsrack on the side or back of the newsrack. Newsracks containing no Compliance Seal are subject to immediate removal.
- B. Each newsrack shall be:
  - (1) installed or placed on the pavement in an upright, sufficiently weighted and secure position;



- (2) of a type that is completely enclosed, with a self-closing door that is either self-latching or otherwise requires manual or mechanical release at each use;
- (3) maintained in a state of good repair and in a neat and clean condition;
- (4) maintained in a condition that is free of accumulations of outdated printed materials, trash, rubbish, or debris; and
- (5) handicapped accessible, as defined by the state Architectural Access Board.

C. Each newsrack shall be regularly serviced so that:

- (1) it is kept reasonably free of graffiti;
- (2) it is kept reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;
- (3) it is kept reasonably free of rust and corrosion in the visible unpainted metal areas thereof;
- (4) the clear glass or plastic parts thereof, if any, through which the printed material is being dispensed are not broken and are kept reasonably free of tears, peeling or fading; and
- (5) the structural parts of the newsrack are not broken or unduly misshapen.

D. Anyone disturbed by noise from the delivery of papers to any newsrack may complain to the Director. The Director shall forthwith notify the applicant of the complaint. The applicant shall contact the complainant and attempt to resolve the complaint. If the complaint is not resolved to the complainant's satisfaction within ten (10) days, the complainant may request a meeting before the Director and the applicant. After such meeting, the Director shall have authority to impose a reasonable resolution to the complaint, including ordering the relocation of the newsrack/s causing the noise problem.

## IX. Enforcement Procedures

- A. Nonconforming Newsracks. Any newsrack found not to be in compliance with this by-law shall be subject to the enforcement provisions contained herein.
- B. Abandonment. In the event that any newsrack installed or used pursuant to the provisions of this by-law does not contain the printed material being dispensed therein for a period of seventy-two (72) hours after the release of the current issue, the Director may deem the newsrack abandoned and take appropriate action

under this by-law A newsrack shall otherwise be deemed abandoned if no printed material is found in the newsrack for a period of more than fifteen (15) consecutive days. In the event that an applicant voluntarily abandons a private newsrack location, the applicant shall so notify the Director, completely remove the newsrack and restore the public way to a safe condition. In the event that an applicant voluntarily abandons space in a Town-owned newsrack, the applicant shall so notify the Director and shall remove all materials therefrom.

C. Noncompliance with annual renewal. It is the responsibly of the applicant to renew the Compliance Seal yearly.

D. Enforcement.

(1) Enforcement of the provisions of this by-law shall be carried out by the Director. Upon a determination that a violation of any provision of this by-law exists the Director shall notify the applicant of the violation in writing by first class mail. The notice shall include:

- a. the location of the newsrack;
- b. the date of the incident or other cause giving rise to the violation; and
- c. a brief and concise statement of the facts causing the violation.

(2) The notice shall inform the applicant that at the expiration of ten (10) days from the issuance of the violation notice, the newsrack will be removed by the Director or, in the case of a Town-owned newsrack, the materials will be removed therefrom, unless the violation is corrected.

(3) Upon removal of a newsrack, the Director shall send, by first-class mail, written notice of such removal to the applicant. Notwithstanding the provisions of the foregoing paragraphs 1(a) - 1(c) of this section, the Director may order the immediate removal of any newsrack (s) that the Director determines presents an imminent threat or peril to public safety, provided that the applicant shall be notified of such removal as soon as practicable thereafter, and further provided that any newsrack so removed shall be stored a period of thirty (30) days in order to allow the applicant to retrieve the newsrack. If the Director removes a newsrack under this section (4) which does not have a Compliance Seal, the Director shall dispose of the newsrack at the end of the thirty-day period.

X. Fees for Removal and Storage

A. A newsrack removed pursuant to this by-law may be retrieved by the applicant within thirty (30) days of its removal upon payment of a removal and storage fee. Such fees shall be set by the Board of Selectmen.

- B. After thirty (30) days, any newsracks and/or materials removed by the Director pursuant to Section IX of this by-law shall be deemed "abandoned property" and become the property of the Town of Andover.
- C. Failure of an applicant to retrieve a newsrack within the specified thirty-day period shall not operate to dismiss any fees owed to the Town for removal and storage of such newsrack. Unpaid fees accrued pursuant to this Section X. shall be considered a debt payable to the Town.

XI. Regulations

The Director may, with the approval of the Town Manager, promulgate such rules and regulations consistent with the provisions of this by-law and the laws of the Commonwealth of Massachusetts as shall carry out the purposes of this by-law.

XII. Effect on Other Laws

Nothing in this Chapter shall affect the adoption of regulations affecting newsracks by other government bodies, such as historic district commissions; to the extent such bodies are authorized to adopt such regulations.

XIII. Severability

The provisions of this by-law shall be severable and if any section, part, or portion hereof shall be held invalid for any reason by any court, the decision of such court shall not affect or impair any remaining section, part or portion thereof.

XIV. Effective Dates

Application for Compliance Seals for privately owned newsracks will be accepted after October 1, 2006. All existing privately owned newsracks are not required to have a Compliance Seal until January 1, 2007. The effective date of this bylaw for town owned newsracks in the Central Business District, as outlined in Section V.D., shall be January 1, 2008.”

or to take any other action relative thereto.

On request of the Main Street Committee

**ARTICLE 39.** To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 44, Section 53E½, for the purpose of establishing a Newsrack Maintenance Revolving Account for maintenance, upkeep, purchase and other expenses relating to newsracks in the Town of Andover for Fiscal Year 2007, such expenses to be funded by revenues collected by application and renewal fees, and to authorize the Director of the Department of Public Works to make expenditures in an amount not to exceed \$25,000 for FY-2007, or take any other action related thereto.

On request of the Public Works Director

**ARTICLE 40.** To see if the Town will vote to amend the General Bylaws of the Town by repealing Article XIV (Wetlands Protection Bylaw).

On petition of Michael C. Gillis and others

**ARTICLE 41.** To see if the Town will vote to raise and appropriate the sum of \$25,000 by taxation, by transfer from available funds, by borrowing or by any combination of the foregoing for the replacement of wooden posts and chain at BallardVale Green with granite posts and permanent-finished chain, or take any other action related thereto.

On petition of Richard J. Bowen and others

**ARTICLE 42.** To see if the Town will vote to raise by transfer from and appropriate \$900,000 from the balance of the Town's Tip Fee Stabilization Fund and any other funds received from the dissolution of the North East Solid Waste Committee, to be used with others funds to be provided by gift, grant or otherwise for the purpose of constructing the utilities, parking and other portions of the infrastructure necessary to meet Town requirements in connection with the construction of a Youth Center, or take any other action related thereto.

On petition of Gerald H. Silverman and others

**ARTICLE 43.** To see if the Town will vote to appropriate the sum of \$500,000 for the purpose of continuing the capping of the Town landfill on Ledge Road including making any improvements to the area and any other costs incidental and related thereto and to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 8, Clause (24) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor or take any other action related thereto

On request of the Public Works Director

**ARTICLE 44.** To see if the Town will vote to:

1. Authorize the Board of Selectmen to petition the Legislature to amend the Town's Charter by adding at the end of the first sentence of Section 5 the words "except the Audit Committee"; and
2. Amend Article III Section 4 (1), (2) and (3) of the Town General By-Laws by adding at the end of each sub-section "except the Audit Committee", and adding the following to the Town General By-Laws:  
"Article III Section 5. Audit Committee.
  - A. The Audit Committee shall consist of seven members. The Board of Selectmen, School Committee and Finance Committee shall annually each appoint one of its members to serve on the Audit Committee. The Town Moderator shall appoint

four residents with financial expertise to serve two-year terms. The chair of the Audit Committee shall be selected by majority vote of the Committee. Members shall be eligible for reappointment.

- B. The primary responsibilities of the audit committee are to oversee the independent audit of the Town's financial statements, including recommending the selection of the independent auditor to the Town Manager; the evaluation of the independent audit scope; and the resolution of audit findings.
- C. The Audit Committee will present an annual report to the Board of Selectmen indicating how the Committee has discharged its responsibilities."

or take any other action related thereto.

On request of the Finance Committee

**ARTICLE 45.** To see if the Town will vote to amend the Andover Zoning Bylaw pursuant to Section 2.3 (District Boundaries) and make the appropriate changes to the Zoning Map of Andover, Mass. To re-zone to Office Park (OP) from Single Family Residence B (SRB) the parcel of land situated on the southerly side of Haverhill Street owned by Merrimack College designated by the Town of Andover as 175 Haverhill Street and comprising Assessor Parcel 1-5 on Assessor Map 1, or take any other action related thereto.

On petition of Merrimack College and others

**ARTICLE 46.** To see if the Town will vote to raise by borrowing and appropriate the sum of \$450,000 for the purpose of paying for the replacement of HVAC units in Town and School buildings including costs incidental and related thereto; and that to meet this appropriation, authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum under and pursuant to Chapter 44, Section 7, Clause (3A) of the Massachusetts General Laws, or any other enabling authority, and to issue bonds or notes of the Town or take any other action related thereto.

On request of the Plant and Facilities Director

**ARTICLE 47.** To see if the Town will vote to transfer the sum of \$69,000 from off-street parking receipts and appropriate \$69,000 for the purpose of purchasing and installing a pay-and-display unit at the Shawsheen Square lot, an electric vehicle replacement for parking enforcement and a message board, including costs incidental and related or take any other action related thereto.

On request of the Police Chief

**ARTICLE 48.** To see if the Town will vote to authorize the Board of Selectmen to declare surplus and available disposition and to transfer the fee interest in the land shown as Parcel B, containing 1,036 square feet, more or less, on Plan of Land entitled "Plan of Land Buxton Court, Andover, MA, January 11, 2006, J. M. Associates, N. Reading, MA 01864", a copy of which is

on file with the Office of the Town Clerk, which is a portion of Town property situated on Buxton Court, in consideration of the transfer of the land shown as Parcel A on said Plan, containing 1,034 square feet, more or less, to the Town, and on such terms and conditions the Board of Selectmen deem in the best interests of the Town, and to authorize the Board of Selectmen to acquire by eminent domain , gift, purchase or otherwise, the fee interest in the land shown as Parcel A, containing 1,034 square feet, more or less, on Plan of Land entitled “Plan of Land Buxton Court, Andover, MA, January 11, 2006, J. M. Associates, N. Reading, MA 01864”, a copy of which is on file with the Office of the Town Clerk, which is a portion of the property at 98 North Main Street, on terms and conditions the Board of Selectmen deem in the best interests of the Town, and to appropriate the sum of Thirteen Thousand (\$13,000) Dollars for such acquisition, and to authorize the Board of Selectmen to request the Legislature to enact special legislation to authorize the Town to acquire and transfer such land, or take any other action related thereto.

On request of the Plant and Facilities Director

**ARTICLE 49.** To see if the Town will vote to amend the Andover Zoning Bylaw, Section 2.3 (District Boundaries) and make the appropriate changes to the zoning maps of Andover, Mass., to re-zone to Mixed Use from SRA land shown as Parcel A, containing 1,034 square feet, more or less, on a Plan of Land entitled, “Plan of Land Buxton Court, Andover, MA, January 11, 2006, J. M. Associates, N. Reading, MA 01864”, a copy of which is on file with the Town Clerk, and to re-zone to SRA from Mixed Use the land shown as Parcel B, containing 1,036 square feet, more or less, on said Plan of Land referred to above. Said parcels of land are also shown as a portion of Lot 31 and a portion of Lot 32 on Town of Andover’s Assessors’ Map 38, or take any other action related thereto.

On request of the Plant and Facilities Director

**ARTICLE 50.** To see if the Town will vote to amend Section 8.1.2 of the Zoning Bylaw by amending the second sentence to read:

“The district includes all areas designated on the plan titled “Fish Brook/Haggetts Pond Watershed Protection Overlay District”, dated December 1985, prepared by the Town Engineer, as amended, and also as amended by the plan titled “Topographic Plan Requested Revision to Watershed Protection Overlay District River Road, Andover, MA, dated January 19, 2006” prepared by Dana F. Perkins, Inc., for Richard and Kay Pelletier, 176 River Road, Andover, MA 01810, which plans are on file in the office of the Town Clerk and which are hereby made part of the Town Zoning Maps.”

or take any other action related thereto.

On petition of Andrew A. Caffrey, Jr. and others

And you are directed to serve this warrant by posting attested copies and publication thereof, fourteen days, at least, before the time and place of said meeting as directed by the Bylaws of the Town.

Hereof fail not, and make return of this warrant with your doings thereon, at the time and place of said meeting.

Given our hands this 27<sup>th</sup> day of February, 2006.

Ted T. Teichert )  
Ted T. Teichert, Chairman )  
Mary K. Lyman )  
Mary K. Lyman, Vice Chairman )  
Alexander J. Vispoli )  
Alexander J. Vispoli )  
John P. Hess )  
John P. Hess )  
Brian P. Major )  
Brian P. Major )

SELECTMEN  
OF  
ANDOVER

A true copy

A T T E S T

\_\_\_\_\_  
Ronald Bertheim, Constable  
Andover, Massachusetts, March \_\_\_\_\_, 2006